

112TH CONGRESS
2D SESSION

H. RES. 586

Expressing the concern of Congress regarding the Argentine Republic's willful and repeated disregard for the rule of law in the United States.

IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2012

Mr. MANZULLO submitted the following resolution; which was referred to the Committee on Financial Services, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

RESOLUTION

Expressing the concern of Congress regarding the Argentine Republic's willful and repeated disregard for the rule of law in the United States.

Whereas Argentina ranks as one of the most important economies of South America and bears the responsibilities of membership in the Group of Twenty Finance Ministers and Central Bank Governors (G-20);

Whereas in 2001, Argentina declared its default on over \$81,000,000,000 of its sovereign debt, including approximately \$9,900,000,000 of Argentine sovereign bonds owned by United States citizens and corporations;

Whereas in 2005, after terminating negotiations with its creditors, Argentina unilaterally sought to impose upon

those creditors a 73 percent reduction on the face value of its debts, a proportion drastically greater than international norms that did not reflect Argentina's capacity to pay;

Whereas Argentina then sought to repudiate all debts owed to the approximately one-quarter of its eligible bondholders who rejected its unilateral offer, notwithstanding the legally and traditionally voluntary nature of such exchanges;

Whereas in 2005, the Argentine administration and legislature codified the repudiation of the Republic's debts by passing the so-called "Lock Law", which prohibited the Argentine government from reopening its debt exchange or making any other future offer to bondholders;

Whereas in 2006, Argentina demonstrated its capacity to repay its debts in full by repaying \$9,800,000,000 owed by the country to the International Monetary Fund (IMF);

Whereas in 2009, Argentina enacted Law 26,547, which temporarily suspended the "Lock Law" for the government's convenience so as to conduct a second debt exchange, with a coercive further prohibition against allowing bondholders that had brought judicial proceedings from receiving more favorable treatment than exchange participants;

Whereas in 2010, Argentina executed this second debt exchange by unilaterally offering creditors not participating in the 2005 exchange the equivalent of a 75 percent reduction in value, even worse terms than those offered in 2005 despite considerable improvement in the country's economic and financial conditions;

Whereas, notwithstanding that the country currently holds at least \$45,000,000,000 in foreign currency reserves, Argentina refuses to pay more than 100 United States court judgments in total exceeding \$5,000,000,000, with further direct and indirect costs to U.S. bondholders, investors, and taxpayers arising from Argentina's default and non-negotiated debt restructuring;

Whereas, notwithstanding Argentina's express commitments in the Fiscal Agency Agreement governing its bond indebtedness to waive claims of sovereign immunity and submit to the jurisdiction of the State of New York in order to gain access to capital markets in the United States, Argentina now contests and refuses to honor these judgments;

Whereas Argentina has similarly dishonored claims brought by United States companies and others before the International Center for Settlement of Investment Disputes (ICSID) and other international arbitral forums, which have collectively issued awards against Argentina totaling over \$900,000,000;

Whereas Argentina's failure to comply with arbitral awards in favor of United States creditors violates Argentina's obligations under the Treaty Between the United States of America and the Argentine Republic Concerning the Reciprocal Encouragement and Protection of Investment, also known as the U.S.-Argentina Bilateral Investment Treaty;

Whereas Argentina's disregard for established international norms is apparent in its disproportionate share of cases brought before ICSID, where, among G-20 countries, Argentina accounts for 78 percent of all pending cases;

Whereas Argentina actively evades the judgments rendered by United States courts and other adjudicatory bodies and thus abusing the immunity of the Bank for International Settlements (BIS), and by secreting its assets in ways and places that frustrate the enforcement of United States judgments and arbitral awards;

Whereas Argentina's dishonest and disreputable conduct encourages other nations to pursue comparable tactics for dishonoring their international financial commitments, for example Ecuador, which in 2008 selectively defaulted on its sovereign bond obligations, citing Argentina's conduct as precedent;

Whereas the international financial community, including the IMF, has criticized Argentina for its lack of fiscal transparency and its manipulation of key economic statistics, including in particular a gross understatement of Argentina's inflation and exaggeration of economic growth;

Whereas Argentina has imposed fines and initiated criminal enforcement action against independent economists who publish inflation statistics that differ from the official reports;

Whereas the Financial Action Task Force (FATF) has identified Argentina's failure to comply with 47 out of its 49 recommendations, the worst evaluation of any G-20 nation, highlighting the country's regulatory shortcomings and the vulnerability of Argentina's financial institutions to terrorist financing and money laundering;

Whereas Argentina refuses to comply with IMF membership requirements, including but not limited to Article IV reviews, which allow the IMF to accurately assess a country's economic health, development, and policies;

Whereas the actions of Argentina since its 2001 declaration of default have imposed billions of dollars of financial losses, not only within the United States but throughout global financial markets, which could deprive more deserving sovereign borrowers of access to capital by undermining confidence in the markets for and legal enforceability of sovereign debt; and

Whereas Argentina's failure to comply with its obligations under international investment treaties threatens to undermine the confidence of investors that such treaties afford them a meaningful remedy against unjust expropriation or other unfair or inequitable treatment by the states in which they invest, thus undermining justice and deterring the investment that is necessary to stimulate worldwide economic growth: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) declares that the Argentine Republic has re-
3 peatedly and willfully disregarded the rule of law in
4 the United States;

5 (2) declares that the refusal of Argentina to
6 honor and satisfy the judgments of United States
7 courts and arbitral awards threatens the economic
8 well-being of the United States and undermines the
9 integrity and efficacy of such courts;

10 (3) declares that Argentina should immediately
11 honor its obligations to United States bondholders
12 and investors;

1 (4) declares that the United States should work
2 with other IMF member states to restrict Argen-
3 tina's access to IMF benefits and prerogatives until
4 Argentina has complied with its obligations as an
5 IMF member;

6 (5) declares that the United States should reso-
7 lutely maintain its policy of opposing further loans
8 to Argentina by the World Bank and the Inter-
9 American Development Bank (excepting those rare
10 circumstances in which loans are targeted at the
11 very poor) and that it should vigorously encourage
12 other countries to do the same;

13 (6) declares that officials of the United States
14 Federal Reserve System who sit on the Board of Di-
15 rectors of the BIS should endeavor to ensure that
16 Argentina is prohibited from continuing to exploit
17 the immunities of this organization for the purpose
18 of evading the judgments of United States courts;
19 and

20 (7) declares that Argentina's behavior is not be-
21 fitting a member of the G-20 Group of Finance
22 Ministers and Central Bank Governors, and that the
23 United States should work with other G-20 mem-

- 1 bers to re-evaluate Argentina's membership in that
- 2 body.

